

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

IRMA TOVAR, individually and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	No. 08 C 4008
)	
v.)	Magistrate Judge Nolan
)	(consent filed)
PLAZA BANK,)	
)	
Defendant.)	

**JOINT MOTION FOR PRELIMINARY
APPROVAL OF A CLASS ACTION SETTLEMENT**

Plaintiff Irma Tovar and Defendant Plaza Bank hereby move this Court for an order: (1) certifying a proposed class for settlement purposes; (2) preliminarily approving all terms and conditions of the proposed Class Action Settlement Agreement and Release (“Agreement”); (3) directing notice to the Class Members; and (4) setting dates for submitting claims, exclusions, objections and a Final Approval Hearing. In support of their motion, the parties state as follows:

1. Counsel for Plaintiff and Defendant have reviewed and analyzed the complex legal and factual issues presented in this case and the risks and expenses likely associated with litigating this case to conclusion.

2. The parties and their respective counsel have negotiated and executed a comprehensive Agreement (Exhibit 1 hereto), which proposes to settle this case on a class-wide basis.¹

¹ In order to provide the Court with a courtesy copy prior to the hearing date, counsel has attached an unsigned version of the Settlement Agreement as Exhibit 1. Counsel expects to have an executed version by the hearing date and will supplement this filing accordingly.

3. The parties have stipulated to certification of the following class for settlement purposes:

All persons who, from October 30, 2007 to March 31, 2008, were charged a transaction fee for the use of any of the following automated teller machines operated by Plaza Bank:

Branch	Address	Type	ATM No.
Main Office	7460 W. Irving Park Rd., Norridge, IL	Drive-up	IP3278
Dunning Square	6500 W. Irving Park Rd., Chicago, IL	Drive-up	IP3277
Niles	7201 N. Harlem Ave., Niles, IL	Drive-up	IP3280

4. Pursuant to the Agreement, the parties have agreed, *inter alia*, to the following:
- That Defendant will establish a Settlement Fund of \$81,500.00, less: (1) the costs of publishing notice once in the Pioneer Press newspapers, Central Zone, once in the Chicago Reader, and once in Hoy; and (2) the costs of posting notice on the ATMs at issue and on the web.
 - From the Settlement Fund, Plaintiff shall receive \$1,500.00 for her services as the class representative.
 - From the Settlement Fund, and subject to court approval, Plaintiff's counsel shall receive \$35,000.00 as reasonable attorneys' fees and costs, which will include the cost of administering the class action through final approval and answering class members' questions.
 - The remainder of the Settlement Fund shall be distributed *pro rata* among those Class Members who timely return fully-executed Claim Forms, up to a maximum of \$1,000.00 per claimant. Any money remaining in the Settlement Fund after payments are made to the Class Members shall be paid as a *cy pres* award as follows: (1) 50% to the entity selected by the Plaintiff – CARPLS, Coordinated Advice & Referral Program for Legal Services, 17 N. State St. #1850, Chicago, IL 60602; and (2) 50% to the entity selected by the Defendant – The Off The Street Club, 25 N. Karlov Ave., Chicago, IL 60624.

5. The parties have agreed on the forms of notice to be given to Class Members: publication notice in Pioneer Press Newspapers distributed in the Central Zone (Exhibit B to the Settlement Agreement), posted notice on the ATM at issue (Exhibit C to the Settlement Agreement), and website notice (Exhibit D to the Settlement Agreement).

6. In addition to the agreed upon forms of notice, the parties have also agreed on a form of a proposed Preliminary Approval Order (Exhibit E to the Settlement Agreement) and a proposed Final Approval Order (Exhibit F to the Settlement Agreement).

WHEREFORE, for the foregoing reasons, the parties request that this Court enter an order: (1) certifying the proposed class for settlement purposes; (2) preliminarily approving all terms and conditions of the proposed Class Action Settlement Agreement and Release; (3) directing notice to the Class Members; and (4) setting dates for submitting claims, exclusions, objections and a Final Approval Hearing.

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